

**ASSEMBLY BILL**

**No. 986**

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**Introduced by Assembly Member Eng**

February 22, 2007

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An act to amend Section 3025 of, to amend the heading of Article 4 (commencing with Section 3070) of Chapter 7 of Division 2 of, and to add Sections 3071, 3072, and 3073 to, the Business and Professions Code, relating to optometry.

LEGISLATIVE COUNSEL'S DIGEST

AB 986, as introduced, Eng. Optometrists: regulation.

Existing law, the Optometry Practice Act, creates the State Board of Optometry, and makes it responsible for the registration and regulation of optometrists. The act makes a violation of its provisions a crime.

This bill would require an optometrist to maintain a patient's records for a minimum of 7 years after the date of treatment or for 7 years after the date a minor patient becomes 18 years of age. The bill would also require an optometrist to report to the board specified information concerning a judgment, settlement, or an arbitration award of \$3,000 or more in an action alleging fraud, deceit, negligence, incompetence, or recklessness in the practice of optometry. The bill would additionally require a professional liability insurer to report to the board specified information upon paying all or a portion of such a judgment, settlement, or arbitration award against an optometrist.

Because the bill would specify additional requirements under the Optometry Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3025 of the Business and Professions  
2 Code is amended to read:

3 3025. The board may make and promulgate rules and  
4 regulations governing procedure of the board, the admission of  
5 applicants for examination for certificates of registration as  
6 optometrists, and the practice of optometry. *The board may also*  
7 *adopt regulations pertaining to the requirements of Sections 3072*  
8 *and 3073. All-such* rules and regulations shall be in accordance  
9 with and not inconsistent with the provisions of this chapter. ~~Such~~  
10 *The* rules and regulations shall be adopted, amended, or repealed  
11 in accordance with the provisions of the Administrative Procedure  
12 Act.

13 SEC. 2. The heading of Article 4 (commencing with Section  
14 3070) of Chapter 7 of Division 2 of the Business and Professions  
15 Code is amended to read:

16  
17 Article 4. ~~Registration~~ *Regulation*  
18

19 SEC. 3. Section 3071 is added to the Business and Professions  
20 Code, to read:

21 3071. An optometrist shall retain a patient's health service  
22 records for a minimum of seven years from the date he or she  
23 treated the patient. If the patient is a minor, the patient's health  
24 service records shall be retained for a minimum of seven years  
25 from the date the patient reaches 18 years of age.

26 SEC. 4. Section 3072 is added to the Business and Professions  
27 Code, to read:

28 3072. (a) An optometrist shall report to the board in writing  
29 within 30 days of the date he or she has knowledge that any of the  
30 following has been entered against him or her in an action alleging

1 fraud, deceit, negligence, incompetence, or recklessness by the  
2 optometrist in the practice of optometry:

3 (1) A judgment, settlement, or arbitration award in a civil action,  
4 if its amount or value is three thousand dollars (\$3,000) or more.

5 (2) A judgment, settlement, or arbitration award in an  
6 administrative action, if its amount or value is three thousand  
7 dollars (\$3,000) or more.

8 (b) The report required by subdivision (a) shall be signed by  
9 the optometrist and shall set forth all of the following information:

10 (1) The title of the case.

11 (2) The court or the name of the administrative agency where  
12 the case was filed.

13 (3) The docket number of the case.

14 (4) The claim or file number of the case.

15 (5) The date on which the event that is the basis for the court  
16 or administrative action occurred and a description of the event.

17 (c) An optometrist shall promptly respond to oral or written  
18 inquiries from the board concerning the report, including inquiries  
19 made by the board in conjunction with the renewal of the  
20 optometrist's license.

21 (d) Violation of this section by an optometrist shall be grounds  
22 for disciplinary action. The board may impose a civil penalty of  
23 not less than one hundred dollars (\$100) and not more than one  
24 thousand dollars (\$1,000) as an intermediate sanction for the  
25 violation of this section in lieu of revoking the optometrist's  
26 license. If an optometrist knowingly and intentionally violates this  
27 section, the board may impose a civil penalty of not more than  
28 twenty thousand dollars (\$20,000) as an intermediate sanction in  
29 lieu of revoking the optometrist's license.

30 (e) Notwithstanding any other provision of law, reporting of  
31 information by an optometrist as required by this section shall not  
32 constitute a violation of a confidential settlement agreement or  
33 any other confidentiality agreement between the parties in the  
34 action.

35 SEC. 5. Section 3073 is added to the Business and Professions  
36 Code, to read:

37 3073. (a) Within 30 days of payment of all or any portion of  
38 a judgment, settlement, or arbitration award described in Section  
39 3072 against an optometrist in which the amount or value of the  
40 judgment, settlement, or arbitration award is three thousand dollars

1 (\$3,000) or more, an insurer providing professional liability  
2 insurance to that optometrist shall report to the board all of the  
3 following information:

4 (1) The name of the optometrist.

5 (2) The claim or file number for the matter.

6 (3) The amount or value of the judgment, settlement, or  
7 arbitration award, and the amount paid by the insurer.

8 (4) The name of the person to whom the insurer made the  
9 payment in the matter.

10 (b) Notwithstanding any other provision of law, reporting of  
11 information by an insurer as required by this section shall not  
12 constitute a violation of a confidential settlement agreement or  
13 any other confidentiality agreement between the parties in the  
14 action.

15 SEC. 6. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 the only costs that may be incurred by a local agency or school  
18 district will be incurred because this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section 17556 of  
21 the Government Code, or changes the definition of a crime within  
22 the meaning of Section 6 of Article XIII B of the California  
23 Constitution.